

## **REMARKS**

Consideration of the present application in view of the following remarks is respectfully requested.

### **Status of the claims**

Claims 1-23, 25, 26, and 29 are pending. Claim 14 has been amended to correct a typographical error.

### **Rejection of claim 26 under 37 C.F.R. 1.75(c)**

Claim 26 was rejected under 37 C.F.R. 1.75(c), as being of improper dependent form for failing to further limit the subject matter of the previous claim. Specifically, the Examiner asserted that claim 26 fails to further limit the invention in that it depends from a method of forming amino acid particles which have been vaporized.

In response, Applicants respectfully submit that the method of spray drying does not necessitate an active in solution, but rather necessitates the active (i.e. an amino acid) to be in a wet form. As claim 25 recites, "spray drying to form solid particles of amino acid.", without limiting the spray drying to the specific wet form of solution, claim 26 properly limits claim 25. Further, although claim 19 recites, "forming solid amino acid particles from a vapor *or* from a *solvent*." (emphasis added), this does not require a solution.

### **Rejection of claims 1-11, 19-23, 25, 26 and 29 under 35 U.S.C. § 103(a)**

Claims 1-11, 19-23, 25, 26 and were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,518,239 to Kuo, et al. (hereafter "the Kuo patent") in view of Morton, et al., Proceedings of the Aerosol Society Tenth Annual Conference, Swansea, 1996.

Applicants respectfully submit that the primary reference cited by the Examiner, (the Kuo patent), is not prior art. Specifically, Applicants note that the Kuo patent claims priority to a provisional application filed October 29, 1999. The present application claims priority to PCT/GB99/04156, filed December 9, 1999, which in turn claims priority to British Application No. 9827145.5, filed December 9, 1998. Therefore, the Kuo patent is not available as prior art against the present application.

**CONCLUSION**

In view of the above, it is respectfully requested that the pending objections and rejections be withdrawn. It is believed that all claims are now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: \_\_\_\_\_

Cary S. Kappel

Reg. No. 36,561

Davidson, Davidson & Kappel, LLC  
485 Seventh Avenue, 14<sup>th</sup> floor  
New York, New York 10018  
(212) 736-1940